

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JASON BERMUDEZ,

Plaintiff,

-against-

DETECTIVE BRYAN TERRIBERRY,
Shield #919773/114th Pct or 108 pct.
108 pct, 5-47 50th Avenue, Astoria NY, 11105
and 114 pct., 34-16 Astoria Blvd., Astoria,
NY 11103,

Defendants.

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Townes, United States District Judge:

On September 26, 2007, plaintiff, Jason Bermudez, filed this *pro se* action pursuant to 42 U.S.C. § 1983 against a detective employed by the New York City Police Department alleging violations of his "constitutional rights as a citizen." Complaint at ¶ 4 G. Specifically, plaintiff alleged that defendant Terriberry's allegedly improper characterization of the crime with which plaintiff is charged as gang-related violated plaintiff's constitutional rights. By Order dated November 8, 2007, the Court dismissed this claim for failure to state a claim under 42 U.S.C. § 1983 pursuant to 28 U.S.C. § 1915 (e)(2)(B)(ii) and 28 U.S.C. § 1915A.

In deference to plaintiff's *pro se* status, *Triestman v. Federal Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006), in light of the uncertainty about the type of claim plaintiff was seeking to state, and in an abundance of caution, the Court's November 8, 2007 Order also granted plaintiff thirty days within which to amend his complaint. *See Cruz v. Gomez*, 202 F.3d 593 (2d Cir. 2000) (*pro se* plaintiff should be afforded an opportunity to amend his complaint prior to dismissal). On December 7, 2006, Plaintiff submitted an amended complaint which merely restates his claim of mis-characterization of his offense as gang-related. Because it does not set

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forth any other claims under 42 U.S.C. § 1983 or any other federal cause of action, the amended complaint is dismissed. 28 U.S.C. § 1915 (e)(2)(B)(ii); 28 U.S.C. § 1915A. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.


Sandra L. Townes
United States District Judge

Dated: Brooklyn, New York

~~February~~, 2008
March 5, 2008